

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kelly Lyon	Team: Squad #10	CCRB Case #: 201901432	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 02/09/2019 12:55 AM	Location of Incident: 116th Avenue and 197th Street	Precinct: 113	18 Mo. SOL 8/9/2020	EO SOL 3/26/2021	
Date/Time CV Reported Sun, 02/10/2019 5:36 AM	CV Reported At: IAB	How CV Reported: E-mail	Date/Time Received at CCRB Fri, 02/15/2019 11:04 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Hector Rodriguez	05774	963723	113 PCT
2. POM Matthew Powers	09868	961119	113 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Hector Rodriguez	Abuse: Police Officer Hector Rodriguez seized § 87(2)(b) s property.	
B.POM Matthew Powers	Discourtesy: Police Officer Matthew Powers spoke discourteously to § 87(2)(b)	
§ 87(4-b) § 87(2)(g)		

Case Summary

On February 10, 2019, § 87(2)(b) filed this complaint with IAB by email. It was received at the CCRB on February 15, 2019, under IAB log #2019-5997.

On February 9, 2019, at approximately 12:55 a.m. in the vicinity of 116th Avenue and 197th Street in Queens, § 87(2)(b) was pulled over by PO Hector Rodriguez and PO Matthew Powers of the 113th Precinct for failing to stop at a stop sign. PO Rodriguez and PO Powers asked § 87(2)(b) for his license and registration. § 87(2)(b) provided a Fraternal Order of Police member card in addition to the requested documents. The Fraternal Order of Police membership card was issued to § 87(2)(b) by his cousin, § 87(2)(b), who worked as a peace officer § 87(2)(b). PO Rodriguez and PO Powers returned to their vehicle to write the summons (**BR 01**). PO Rodriguez returned and handed § 87(2)(b) the summons and informed him that he was not getting his Fraternal Order of Police membership card back (**Allegation A: Abuse of Authority – Seizure of Property**, § 87(2)(g)). Then PO Powers knocked on § 87(2)(b)'s window, shut off his body-worn camera, and allegedly said, “Who gave you that bullshit card?” (**Allegation B: Discourtesy – Word**, § 87(2)(g)). § 87(4-b) § 87(2)(g) b).

§ 87(2)(b) was issued summons #§ 87(2)(b) (**BR 01**) for failing to stop at a stop sign. Body-worn camera footage found in IAs 47 and 48 (**BR 02** and **BR 03**) were obtained and relevant portions are discussed below. There was no other known video of the incident.

§ 87(2)(g)

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Hector Rodriguez seized § 87(2)(b)'s property.

It is undisputed that § 87(2)(b) was pulled over by PO Rodriguez and PO Powers for disobeying a stop sign. § 87(2)(b) provided a Fraternal Order of Police membership card which he received from his cousin § 87(2)(b) (**BR 04** and **BR 05**). PO Rodriguez seized the card and issued § 87(2)(b) a summons (**BR 01**).

§ 87(2)(b) consistently stated (**BR 06**, **BR 07**, and **BR 08**) that after he was pulled over, he handed PO Rodriguez his license and a Fraternal Order of Police membership card, which was issued to him by his cousin. PO Powers looked at the card and was smiling while he looked at it. PO Rodriguez and PO Powers went back to their vehicle to write the summons. When PO Rodriguez returned, he handed § 87(2)(b) the summons. § 87(2)(b) asked for the Fraternal Order of Police membership card and PO Rodriguez stated, “You’re not getting it back.” § 87(2)(b)'s statements were generally consistent with the following exception, in his original complaint (**BR 06**) he stated that his cousin worked as § 87(2)(b). In his verified statement (**BR 08**), § 87(2)(b) stated his cousin worked as § 87(2)(b).

§ 87(2)(b) brought a Fraternal Order of Police membership card to his CCRB interview which he received from his cousin after his original card was seized during the incident. § 87(2)(b) claimed that it was identical to the card that was seized. The front of the card (**BR 04**) read New York State Fraternal Order of Police 2019. The back of the card (**BR 05**) contained contact

information for Empire State Lodge, Inc. The back of the card also stated that the card was issued to § 87(2)(b) by § 87(2)(b) § 87(2)(b) phone number was also a handwritten on the back.

PO Rodriguez stated (**BR 09**) after he and PO Powers pulled § 87(2)(b) over for disobeying the stop sign, § 87(2)(b) provided his ID, registration, insurance, and a Fraternal Order of Police card. PO Rodriguez had never seen that type of card before. § 87(2)(b) informed PO Rodriguez that his cousin was a State Trooper. PO Rodriguez returned to his vehicle and called the handwritten number on the back of the Fraternal Order of Police Card. PO Rodriguez reached a voicemail that did not sound official and he could not verify who it belonged to. PO Rodriguez decided to seize the Fraternal Order of Police card because he believed it was fake. PO Rodriguez later mailed the card to the address printed on the back, but did not document mailing the card, nor did he prepare any voucher for the seized card.

PO Powers stated (**BR 10**) that after he and PO Rodriguez pulled § 87(2)(b) over, § 87(2)(b) § 87(2)(b) provided what PO Powers believed to be an equivalent of a State Trooper's PBA card. PO Powers did not recognize the type of card. PO Powers and PO Rodriguez both attempted to call the number written on the back but there was no answer. PO Powers called the state police and provided the name that was handwritten on the back of the card and the state police could not verify the card. PO Rodriguez made the decision not to return the card to § 87(2)(b) § 87(2)(b) § 87(2)(b)'s cousin, stated that (**BR 11**) at the time of the incident he was employed as a peace officer § 87(2)(b), that he was issued the card by the Fraternal Order of Police, and that he gave a card to § 87(2)(b) § 87(2)(b) confirmed that he received a missed call on the night of the incident.

A representative from the Fraternal Order of Police Empire Lodge branch stated (**BR 12**) that anyone who is a current or retired police officer or peace officer can become a member of the Fraternal Order of Police. After becoming a member, the member receives a package in the mail which includes the Fraternal Order of Police membership cards which they may give to friends and family members. The representative could not verify whether § 87(2)(b)'s cousin was a member without additional pedigree information because there was more than one member by the name § 87(2)(b) who worked in Manhattan at the time of the incident.

PO Rodriguez's body-worn camera video (**BR 02**) captured § 87(2)(b) giving the Fraternal Order of Police membership card to PO Rodriguez. At 1:34 minutes, PO Rodriguez says, "Who is this?" § 87(2)(b) says, "That's my cousin sir." PO Rodriguez says, "He's your cousin?" § 87(2)(b) says, "Yeah." At 1:47 minutes, PO Powers says, "It's not a PBA card." At 2:06 minutes, PO Rodriguez says, "What's your cousin's name," and § 87(2)(b) replies, "§ 87(2)(b)" At 3:23 minutes, PO Rodriguez makes a phone call and says, "Hello," four times and disengages. At 6:28 minutes, PO Rodriguez places another phone call and disengages without speaking to anyone.

The sub-clip from PO Powers's body-worn camera (**BR 13**), located in IA 65, captures PO Powers's phone call to the New York State Troopers. PO Powers says, "This is NYPD PO Powers. I'm trying to honor a PBA card, is there any way you can look up the PO for me? § 87(2)(b) is the last name and the first name is § 87(2)(b) § 87(2)(b)." § 87(2)(g)

§ 87(2)(g) video (**BR 02**) showed that § 87(2)(b) never indicated to the officers that his cousin, § 87(2)(b) worked as a state trooper. Furthermore, PO Rodriguez and IAB confirmed that no property vouchers were

prepared, and no memo book entries documented the seizure. § 87(2)(g)

New York Penal Law § 170.20 (**BR 14**) states a person is guilty of criminal possession of a forged instrument when, with knowledge that it is forged and with intent to defraud, deceive or injure another, he utters or possesses a forged instrument.

Patrol Guide procedure 208-26 (**BR 15**) states that property may be seized without an arrest where there is reasonable cause to believe that the property was unlawfully obtained, stolen, the means of committing, aiding or furthering a crime or the proceeds of a crime. Property seized as investigatory evidence must be vouchered.

§ 87(2)(g)

Allegation (B) Discourtesy: Police Officer Matthew Powers spoke discourteously to § 87(2)(b)

§ 87(2)(b) stated (**BR 06**, **BR 07**, and **BR 08**) that at the end of the incident, after receiving his summons from PO Rodriguez, PO Powers approached his driver's window, turned off his body-worn camera, waited approximately 30 seconds and said, "Who gave you this bullshit card? It's fake." § 87(2)(b)'s statements were consistent with the following exception, in his original complaint (**BR 06**) § 87(2)(b) added that PO Powers said, "Don't fucking lie to me."

PO Powers (**BR 10**) denied saying the word bullshit or using any profanity at any point during the incident. PO Rodriguez (**BR 09**) stated that he never heard PO Powers say the word "bullshit" or any other profanities at any point during the incident.

The sub-clip from PO Powers's body-worn camera (**BR 16**), located in IA 64, captures PO Powers standing outside of § 87(2)(b)'s vehicle looking at the Fraternal Order of Police membership card. At 00:48 seconds, PO Powers says, "What the hell happened here. New York State Police. This is bullshit."

The sub-clip from PO Powers's body-worn camera (**BR 13**), located in IA 65, captures PO Powers on the phone speaking to the New York State Troopers." At 1:26 minutes, PO Powers says, "Nah, it's a B.S. one. Thanks a lot, I appreciate it, alright bye."

The sub-clip from PO Powers's body-worn camera (**BR 17**), located in IA 66, captures the last 28 seconds of PO Powers's footage. The video shows PO Powers walking to the driver's side of § 87(2)(b)'s vehicle where he knocks on § 87(2)(b)'s window and turns off his body-worn camera.

The end of PO Rodriguez's body-worn camera (**BR 02**) shows PO Powers standing at § 87(2)(b)'s window, at 14:32 minutes, after PO Power's turned his body-worn camera off.

§ 87(2)(g)

Patrol Guide procedure 200-02 (**BR 18**) states an officer must respect the dignity of each individual and render services with courtesy and respect.

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**BR 19**).
- PO Rodriguez has been a member of service for two years and this is the first CCRB complaint to which he has been a party.
- PO Powers has been a member of service for three years and this is the first CCRB complaint to which he has been a party.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- As of August 1, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (**BR 21**).

Squad No.: 10

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer:

Signature

Print Title & Name

Date